

Message Text

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SUBJECT: SOUTH VIETNAMESE ASYLUM SEEKERS IN USA

REF: GENEVA 5577 (NOTAL)

1. DEPARTMENT HAS ALSO RECEIVED INQUIRY FROM UNHCR, NEW YORK REGARDING SEVEN SOUTH VIETNAMESE STUDENTS SEEKING ASYLUM IN THE U.S. DEPT. HAS REPLIED TO UNHCR NEW YORK AS FOLLOWS: (UNNECESSARY WORDS DELETED):

A) "WE HAVE CAREFULLY REVIEWED ASYLUM REQUESTS OF THESE STUDENTS AS SUBMITTED TO US BY INS. ON BASIS OF INFORMATION PROVIDED BY STUDENTS TO INS, WE DO NOT BELIEVE THAT STUDENTS HAVE MADE VALID CLAIMS TO ASYLUM. IT IS NOTED THAT NONE OF STUDENTS CLAIMED TO HAVE BEEN EITHER POLITICALLY ACTIVE OR POLITICALLY LIMITED OFFICIAL USE

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PERSECUTED IN VIETNAM PRIOR TO THEIR DEPARTURE TO THE

U.S. FURTHER, THEY CAME TO THE U.S. AS EXCHANGE VISITORS SPONSORED BY AID WITH APPROVAL OF GVN. THUS, IT IS HIGHLY UNLIKELY THAT THEY WERE OPPONENTS OF GVN AT TIME OF THEIR DEPARTURE FOR U.S.

B) "AS TO THEIR ACTIVITIES IN THIS COUNTRY, DEPT. OF STATE IS AWARE OF NO CASE IN WHICH PERSONS RETURNING TO SOUTH VIETNAM HAVE BEEN PERSECUTED FOR POLITICAL ACTIVITIES CARRIED ON OUTSIDE JURISDICTION OF THAT COUNTRY.

FURTHER, MANY OPPONENTS OF CURRENT GOVERNMENT OF SOUTH VIETNAM CONTINUE TO WORK IN THAT COUNTRY UNMOLESTED SO LONG AS THEIR OPPOSITION IS CONFINED TO LEGAL CHANNELS. STATEMENTS GIVEN BY VARIOUS STUDENTS WOULD APPEAR TO INDICATE THAT ALL HAVE BEEN MOTIVATED IN THEIR ASYLUM REQUEST BY DESIRE TO REMAIN IN THE U.S. AS OPPOSED TO A WELL-FOUNDED FEAR OF PERSECUTION SHOULD THEY RETURN TO SOUTH VIETNAM.

C) "IN THAT CONVENTION RELATING TO STATUS OF REFUGEES, OPERATIVE U.S. LAW ON MATTERS OF POLITICAL ASYLUM, PROVIDES FOR GRANTING OF ASYLUM ONLY IF APPLICANT HAS A WELL-FOUNDED FEAR OF PERSECUTION ON ACCOUNT OF RACE, RELIGION, NATIONALITY, POLITICAL OPINION, OR MEMBERSHIP IN A PARTICULAR SOCIAL GROUP SHOULD HE RETURN TO HIS HOME COUNTRY, WE CANNOT LEGALLY GRANT ASYLUM TO THESE STUDENTS."

2. GIVEN HIGH LEVEL OF UNHCR AND CONGRESSIONAL INTEREST IN CASE OF SEVEN SOUTH VIETNAMESE STUDENTS, DEPT. HAS AGAIN CAREFULLY REVIEWED REQUESTS FOR ASYLUM. NOTHING THEREIN ALTERS OUR ORIGINAL FINDING, I.E., THEY HAVE FAILED TO MAKE VALID CLAIMS TO ASYLUM. STUDENTS CAME TO U.S. UNDER SPECIFIC AGREEMENT THAT THEY WOULD RETURN TO SOUTH VIETNAM TO WORK THERE. IT WOULD APPEAR THAT STUDENTS CLAIMS TO ASYLUM ARE MOTIVATED PRINCIPALLY BY TWO FACTORS: 1) BETTER ECONOMIC CONDITIONS AVAILABLE IN U.S. AND 2) FEAR ON PART OF MALE APPLICANTS THAT THEY WOULD FACE DRAFT UPON RETURN TO SOUTH VIETNAM. NEITHER CONSTITUTES BASIS FOR GRANTING ASYLUM UNDER CONVENTION LIMITED OFFICIAL USE

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RELATING TO STATUS OF REFUGEES.

3. DEPT. HAS BEEN INFORMED THAT DEPORTATION HEARINGS FOR STUDENTS HAS BEEN DELAYED UNTIL MID SEPTEMBER. AS LEGALLY ADMITTED ALIENS, STUDENTS HAVE FULL RIGHTS OF APPEAL THROUGH ADMINISTRATIVE PROCEDURES OF INS AND ADDITIONAL LEGAL REMEDIES AVAILABLE TO ALL LEGAL ALIENS IN THE U.S. WE WOULD POINT OUT THAT THESE LEGAL APPEAL PROCEDURES

EXCEED THOSE REQUIRED BY CONVENTION. THUS, STUDENTS
NEITHER FACE IMMEDIATE DEPORTATION FROM U.S. NOR DO THEY
FACE EVENTUAL DEPORTATION WITHOUT OPPORTUNITY FOR FULL
REVIEW OF THEIR CLAIMS TO POLITICAL ASYLUM UNDER BOTH
ADMINISTRATIVE AND LEGAL PROCEDURES. DEPT. CONSIDERS
MATTER REMAINS ONE BETWEEN USG, I.E., INS, AND APPLICANTS
FOR POLITICAL ASYLUM. KISSINGER

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